IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION.

FIRST APPEAL NO.28 OF 1999.

Utkal Mitra Mandal & ors. : Appellants.

versus

1(a) Mr.Rajaram Shivashankar

Chauhan & ors. : Respondents.

Mr.E.K.Sasidharan for the appellants.

Mr.Vinod Mahadik for Respondent No.2.

Mr.B.R.Patil, AGP, for Respondent No.3.

CORAM : D.G.DESHPANDE,J.

DATED : 6th April 2005.

ORAL ORDER

1. This is an appeal by the original plaintiffs. Their suit came to be dismissed by the Judge of City Civil Court, Bombay on 8.1.1998. The impugned judgment is not in a proper form. The judge has firstly considered the case of the plaintiffs and

defendants-corporation, then noted the Issues framed and gave his findings on Issue in one line and dismissed the suit after coming to the conclusion that the plaintiffs have no legal right.

. Counsel for the appellants therefore contended that the judgment is not proper. Firstly, the facts on the basis of pleadings of the parties should have been stated; then Issues, then evidence; then discussion and final order should have been followed. This contention of the appellants appears to be correct and, the matter is required to be remanded back to the trial Court. However, it was made clear to the counsel for the appellants/original plaintiffs that while the matter is decided by the trial Court again after remand, the plaintiffs will not be permitted to claim any ad interim order. He upon instructions agreed to that. Hence the order :-

:ORDER:

The appeal is allowed.

Impugned order is set aside. The matter

is remanded to the lower Court which will on the basis of the evidence already recorded hear the parties again and then decide the case issue-wise by the end of September 2005.

Statement for the counsel for the appellants that the plaintiffs or no-one from them will claim ad interim order before the lower Court, is accepted and taken on record.

If the R&P is received to this Court, the same to be sent back immediately to the lower Court.

All issues are kept open.

[D.G.DESHPANDE]

08/04/2005 JUDGE.